SRCSD

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Mr. Thomas Pinkos, Executive Officer
Central Valley Regional Water Quality Control Board
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Re: Comments on Proposed Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins for the Control of Mercury in Cache Creek, Bear Creek, Sulphur Creek, and Harley Gulch, Staff Report, August 2005

Sacramento Regional County Sanitation District (the District) appreciates the opportunity to comment on the proposed Cache Creek Mercury TMDL and Basin Plan amendment (BPA). The District has only just received your staff's response to our comments submitted June 8, 2005, this past Monday, October 3, 2005. We continue to have significant concern with the elements of the proposed TMDL discussed below. Additional detail on each of these issues can be found in our comments on the May 2005 versions of this staff report sent to you on June 8, 2005. As always, we would be happy to discuss our concerns with staff directly.

1. The methyl mercury allocation strategy outlined in the proposed TMDL is based on a misleading premise, i.e. that control of aqueous methyl mercury concentrations at specific locations in the Cache Creek watershed will have widespread, regional benefits in reducing fish tissue mercury levels.

Regional Board staff's response to this comment contends that observed increases in methyl mercury concentrations as one moves downstream in Cache Creek is a result of "conserved" methyl mercury (i.e. a hypothesis that methyl mercury behaves as a conservative parameter, maintaining its integrity for days and changing in concentration over long distances in direct response to mass additions). This hypothesis lacks scientific support and ignores a body of information that shows methyl mercury is a non-conservative parameter that is created and destroyed over short time intervals (hours) at various locations within the Cache Creek watershed and downstream waters in the Delta. This hypothesis seems to be favored because it leads to a simplistic management framework wherein control of methyl mercury at any location in the watershed is valued as a significant contribution to an overall solution. A more plausible hypothesis is that methyl mercury concentrations increase as one moves downstream along Cache Creek because net production of methyl mercury (where methylation processes dominate demethylation processes) is relatively higher in the stream bed, stream banks, wetlands and other methylating environments along Cache Creek. Under this hypothesis, local control of only the current man-made methyl mercury sources has little value in the overall scheme due to the overriding magnitude of in-stream methylation. As a result, major expenditures to control individual local methyl mercury sources emerge as an unreasonable implementation plan given the uncertain nature of the Regional Board staff position on these hypotheses.

2. The proposed prohibition on new sources or net increases of mercury or methyl mercury in the watershed is an unreasonable and unsupported provision of the proposed implementation plan.

SRCSD reiterates this comment partly because of the deficiencies highlighted in our June 8, 2005, comment letter and because staff has not demonstrated any benefit of this stringent requirement that is commensurate with the regulation of minor mercury or methyl mercury sources in the watershed.

3. Aqueous Methylmercury "goals" for Cache Creek, Bear Creek and Harley Gulch.

SRCSD is very concerned that the staff proposal recommends a water column "goal" instead of adopting a water quality objective for methyl mercury in Cache Creek, Bear Creek and Harley Gulch. The adoption of a "goal" that is then used with the full force and authority of a water quality objective is a transparent attempt to avoid the responsibility to adopt water quality objectives pursuant to the California Water Code, in particular, responsibility pursuant to sections 13241 and 13242. In reality, "goals" that are adopted without full consideration of Water Code factors can end up being used in permits and other regulatory requirements to establish stringent final effluent and/or receiving water limits. SRCSD requests that proposed goals be either eliminated or adopted in compliance with the spirit and intent of sections 13241 and 13242 of the Water Code.

In reviewing the responses from your staff to detailed comments received on June 8, 2005, from SRCSD, we find them largely non-responsive. As long as Regional Board staff continues to focus mercury risk management on identified ongoing sources without regard to their magnitude or impact, while ignoring in-stream, natural and uncontrolled sources, mercury management efforts to control levels in fish will continue to be ineffective, problematic and controversial.

Sincerely,

Robert F. Shanks
District Engineer

cc: CVCWA
Petrea Marchand
Water Resources Coordinator